

**50-State Survey
STATE REGULATIONS RELATED TO THE
DISTRIBUTION AND SALE OF BEER AND WINE**

Thank you for taking the time to complete this survey about your state's regulatory system related to the distribution and sale of beer and wine.

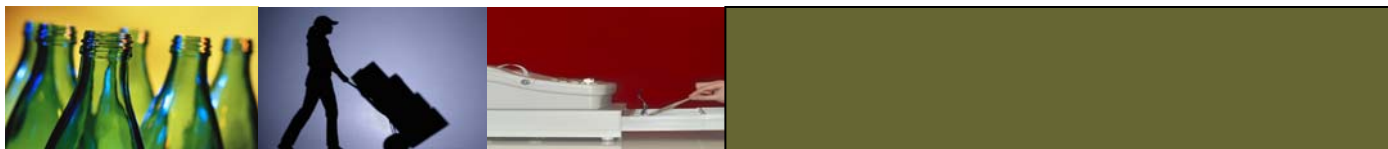
Some background may be helpful to you. During the 2006 legislative session, the Washington State Liquor Control Board (LCB) was directed by the Legislature to conduct a comprehensive review of the state's three-tier system for the sale and distribution of beer and wine. The purpose of this review is to identify key issues and concerns about the current system for the sale and distribution of beer and wine, and to determine whether changes, if any, are warranted.

The LCB has convened a task force, comprised of industry and public stakeholders, to provide recommendations related to the review, and Sterling Associates is assisting with this effort. Sterling Associates has been meeting with industry stakeholders (including business, government, and public health and safety) to identify key issues and concerns related to the state's existing regulatory framework. Our next step is to provide the task force members with a comparative analysis of how other states have addressed these key issue areas.

We are interested in gaining a broad understanding of how other systems are structured both generally and in relation to specific issues. As the task force moves forward we may be back in contact with you to gain a more detailed understanding of the structure and impacts of specific areas of your regulatory system.

Again, thank you for taking the time to complete this survey. Your time and insights are very much appreciated.

Please return to Jill Satran at Sterling Associates by August 31, 2006. jills@sterling-llp.com
or fax: 360-459-1904. Telephone contact at: 360-956-9064.



The **purpose of this survey** is to gain an understanding of how other states approach a number of issues raised as concerns in Washington. This information will be used to inform the Washington State Liquor Control Board's Three-Tier Task Force as it develops recommendations to the Legislature about whether the state's existing system should be modified.

INSTRUCTIONS: For each item, fill out the appropriate boxes. Electronically, put your cursor over the box and left-click on ONE box for each question to check the box for your preference.

[**HINT:** The text is locked to allow only the checking of a box or inserting text into comment areas. If you hit your "tab" button, it will take you to the next area that is editable.]

Washington is most interested in impacts of changes, especially if changes resulted in more or less abusive consumption or issues with tax collection or enforcement. **IF your state has recently changed a regulation, PLEASE indicate how long ago this changed and what the apparent impacts have been in the comment box.**

In the appropriate comment areas (light gray shaded), put your curser in the grayed area and type.

Time is critical. To the extent you can go through this survey and quickly/easily fill in some of it, please do so and return it, even if it's not complete. To the extent you have time to fill in more of it, we appreciate as much information as possible. We can provide your agency with a copy of the combined results.

Please return to Jill Satran at Sterling Associates by August 31, 2006. jills@sterling-llp.com or fax: 360-459-1904. Telephone contact at: 360-956-9064.

State Alcohol Beverage Control Authority:
Name and title of person completing this survey:
Contact information (phone, email):

1. Does your state mandate the use of a distributor in the distribution of beer and wine? In other words, is the three-tier system mandatory in your state?

☐ No ☐ Yes

Comments:

2. Does your state allow **in-state** beer and / or wine manufacturers to distribute their products directly to retailers?

☐ No ☐ Yes

Comments:

3. Does your state allow **out-of-state** beer and / or wine manufacturers to self-distribute their products directly to retailers?

☐ No ☐ Yes

Comments:

4. Please describe your state's regulations related to the relationship between the distributors and manufacturers. (Does the state grant distributors exclusive territories? Under what circumstances can a distributor or manufacturer end the relationship? Etc.)
5. Have any changes to your state's requirements related to the use of distributors been made recently? For example:
- ☐ Has your state recently allowed / disallowed in-state manufacturers to distribute directly to retailers?
- ☐ Has your state recently allowed / disallowed out-of-state manufacturers to distribute directly to retailers?
- ☐ Has your state recently allowed / disallowed in-state manufacturers to distribute directly to consumers?
- ☐ Has your state recently allowed / disallowed out-of-state manufacturers to distribute directly to consumers?
- ☐ Other changes?
6. If your state has changed its regulations regarding the mandatory use of distributors recently, have the impacts of those changes been measured?
- ☐ No ☐ Yes

If yes, please briefly describe the measures and the results:

PRICE POSTING AND PRICE HOLDS: In Washington, beer and wine manufacturers and distributors are required to post their prices to the state, and once posted, the manufacturer or distributor must "hold" those prices for one month. (In other words, the posted price must not be changed for at least one month.)

7. Does your state require manufacturers and / or distributors to **post** their prices to the state?
- ☐ No ☐ Yes

If yes, is posting required for:

☐ Beer only ☐ Wine only ☐ Both beer and wine ☐ Other (please specify:)

If yes, please specify who is required to post their prices (i.e., manufacturers, distributors, both, importers, other?)

If no, please describe the mechanism for tracking prices (i.e. they maintain a price list and the state audits periodically, etc.):

8. Does your state require manufacturers and / or distributors to **hold** their prices for any period of time?

☐ No ☐ Yes

If yes, please provide a brief description of your hold requirements (how long, etc.):

UNIFORM PRICING AND QUANTITY DISCOUNTS: In Washington, a manufacturer or distributor must provide all retailers the same, posted price for each product sold. Discounts for quantity purchases are prohibited.

9. Does your state require that all products sold by a manufacturer or distributor be sold at the same price to all retailers?

☐ No ☐ Yes

Comments:

10. Does your state allow beer and wine to be sold at a discount for quantity purchases or other circumstances? If yes, does a discount have to be offered uniformly to all retailers?

DISCOUNTS: ☐ No ☐ Yes

Comments:

11. If your state allows discounts, does a discount price have to be offered uniformly to all retailers?

UNIFORM DISCOUNTS: ☐ No ☐ Yes

Comments:

CENTRAL WAREHOUSING, DELIVERED PRICING: In Washington, all beer and wine products must be delivered to a retailer's retail premises, and cannot be delivered to a central warehouse for distribution by the retailer, or the retailer may pick the product up from the manufacturer or distributor. All posted prices must reflect the cost to deliver to the retailer's premises.

12. Does your state allow beer and wine products to be delivered to a retailer's central warehouse?

☐ No ☐ Yes

Comments:

13. Does your state require that all the manufacturer's or distributor's price reflect the cost to deliver to the retailer's premises, and be uniform to all retailers (i.e. the same "delivered" price regardless of the services the retailers uses, such as stocking, rotation, etc.)?

Delivered Pricing: ☐ No ☐ Yes

UNIFORM Delivered Pricing: ☐ No ☐ Yes

Comments:

USE OF COMMON CARRIERS: In Washington, beer and wine manufacturers are allowed to distribute their products directly to retailers. All self-distributed product, however, must be delivered by the manufacturer directly unless the retailer arranges a common carrier to pick up the product. The manufacturer is prohibited from arranging to use a common carrier to deliver product to a retailer.

14. Does your state regulate the methods that may be used to deliver product to the retailer. In particular, when a manufacturer is self-distributing product to a retailer, does your state regulate the method of delivery?

☐ No ☐ Yes

If yes, how does your state regulate the method of delivery:

PRICING POLICY AND MANDATORY MINIMUM MARKUP: According to the Washington State Liquor Control Board, the state regulations in place are designed, at least in part, to maintain higher prices for alcohol beverages. This regulatory approach reflects an assumption that higher prices tend to reduce consumption, and therefore abusive consumption. One method the LCB uses to maintain higher prices is to require that manufacturers must not sell their product below the cost of production plus a 10% minimum markup, and distributors must not sell their product below the cost of acquisition plus a 10% minimum markup.

15. Does your state take a similar approach to product pricing? That is, has your state adopted pricing policies that are designed to maintain higher prices in order to reduce abusive consumption?

☐ No ☐ Yes

If so, what:

16. Does your state require a minimum mandatory markup at any point in the distribution chain? If yes, what is the minimum mandatory markup?

☐ No ☐ Yes Minimum Mandatory Markup amount:

Comments:

TIED HOUSE RESTRICTIONS: In Washington, manufacturers and distributors are prohibited from providing *any* “direct or indirect” “money or money’s worth” to retailers. In addition, the state prohibits manufacturers and distributors from having *any* ownership interest in a retail establishment. Although a few specific exceptions to these restrictions have been carved out, no general “de minimus” exception has been established and Washington’s application of tied house restrictions is generally characterized as “strict.”

17. Does your state restrict or prohibit a manufacturer or distributor from providing items of value to retailers?

☐ No ☐ Yes

If yes, please provide the language of the statute or rule (You can cut and paste directly into the shaded box, or if preferred, you may provide a statutory reference and/or attach a copy of the language when you return your survey.):

18. Has your state adopted any general *de minimus* or specific exceptions to the general restrictions against providing items of value to retailers?

☐ No ☐ Yes

If yes, please describe the exceptions.

19. Does your state restrict or prohibit a manufacturer or distributor from taking an ownership interest in a retail establishment?

☐ No ☐ Yes

If yes, please provide the language of the statute or rule (You can cut and paste directly into the shaded box, or if preferred, you may provide a statutory reference and/or attach a copy of the language when you return your survey.):

20. What exceptions to your state’s general tied house restrictions have been granted? (Brew pubs, wineries with restaurants, etc.?)

21. Does your state allow any indirect ownership among the tiers? (e.g., board memberships, parent companies, etc.)

☐ No ☐ Yes

If yes, please describe:

GENERAL INFORMATION:

22. How many licenses have been granted to:

In-state wine manufacturers:

In-state beer manufacturers:

Out-of-state wine manufacturers:

Out of state beer manufacturers:

Foreign importers:

Beer distributors:

Wine Distributors:

Beer and wine distributors:

Off-premises retailers:

On-premises retailers:

23. How many enforcement officers does your state have to enforce non-retail (manufacturer and distributor) business and trade regulations?

of full-time equivalent employees

What agency are these enforcement officers located in (i.e., the state alcohol beverage control agency, department of revenue, state patrol?):

Comments:

24. How many non-retail business and trade violations did your state's enforcement officers investigate last year?

25. How many and what types of citations were issued?

26. How much beer and wine is produced in your state annually? Please provide annual production amounts for calendar year 2005:

27. Is there anything unique about your state that influences the level of beer and wine produced, sold, consumed? (For example, does your state border a particularly liberal alcohol distribution state? Or does your state's alcohol distribution policy environment encourage out of state consumers to purchase their product in your state?)
Please describe:

28. Does your state measure the impacts of its alcohol distribution policies?

☐ No

☐ Yes

If yes, please describe the measures you use and why:

29. What taxes are collected on the distribution and sale of beer and wine?

Please describe the type of tax (liter, excise, sales, etc.) and the tax rate for each type:

29a. At what point in the distribution chain are these taxes imposed?

29b. How much revenue did your state collection from these taxes in calendar year 2005?

29c. What percentage of your state's overall annual revenue collection does this represent?

30. Control States Only: Please review the table below and make any corrections to the description for your state's system. In particular, we are interested in knowing the following:

- What beverages are under state control (distilled spirits only? distilled spirits and wine? all alcohol beverages? etc.)
- Does your state control alcohol distribution only at the wholesale level? Or, do you control distribution at both the wholesale and retail level? Some other combination?
- If your state allows the private retail of beer and wine, does the state compete with the retail sector? (That is, do state-run liquor stores also sell beer and wine?)
- Are there any other areas of overlap, where both the state and the private sector can wholesale or retail the same types of product?

THANK YOU for taking the time to complete this survey. Please send the completed survey to: Jill Satran at jills@sterling-llp.com.

While every state "controls" the sale of alcoholic beverages to a certain extent, "control states" are those states where the state liquor control authority is "in the business" of wholesaling and/or retailing alcoholic beverages by monopolizing such activities for all or some of the alcoholic beverage product classes. This list identifies those states that exercise more distribution control than simply issuing and enforcing license provisions for the sale and distribution of alcoholic beverages through private enterprise in a three-tier distribution arrangement. State control of alcoholic beverages varies by kind of beverage, level of distribution, and exclusivity. (Source: Wine Institute, <http://www.wineinstitute.org/reflib/pub/otherstate/controlstates.htm> accessed on 3/9/06)

State	Beverage Controlled			Level Controlled		Notes
	Beer	Wine	Spirits	Wholesale	Retail	
Alabama	No	Wine over 14% ABV	All DSP	Wine over 14% ABV and All DSP	Wine over 14% ABV and All DSP	Wine under 14% ABV may be sold through private licensees. 6% ABV cap on beer. <i>Beer containers may not exceed 16 ounces.</i>
Idaho	No	Wine over 14% ABV	All DSP	Wine over 14% ABV and All DSP	Wine over 14% ABV and All DSP	"Liquor by the Drink" facilities may be licensed. "County Option Kitchen and Table Wine Act" permits local option for private sale of table wine
Iowa	No		All DSP	All DSP	All DSP sold through state stores and state-issued licenses	Wine sold through private licensees. DSP sold through state stores and retail licenses. Importation of DSP exclusively through state control system. <i>Beer >5% ABW shipped through state warehouse.</i>
Maine	No		All DSP	All DSP	All DSP sold through state stores and state-issued licenses	Wine sold through private licensees. DSP sold through state stores and retail licenses. Importation of DSP exclusively through state control system.
Michigan	No		All DSP	All DSP	All DSP sold through state stores and state-issued licenses	Wine sold through private licensees. DSP sold through state stores and retail licenses. Importation of DSP exclusively through state control system.
Mississippi	No	All wine over 4% alcohol by weight	All DSP	Wine over 4% alcohol by weight and All DSP	All wine over 4% alcohol by weight and all DSP sold through state-issued licenses	Primary control at wholesale level. Retail through licenses issued by state.
Montana	No	Unfortified wine over 16% ABV and all fortified wine	All DSP	Unfortified wine over 16% ABV, all fortified wine, All DSP	State-issued licenses	Primary control at wholesale level. Retail through licenses issued by state.

State	Beverage Controlled			Level Controlled		Notes
	Beer	Wine	Spirits	Wholesale	Retail	
New Hampshire	No	All wine	All DSP	All wine, DSP	Wine, DSP sold through state stores and licensees	Concurrent private licensee sales. Retail through state stores and licenses issued by state.
North Carolina	No		All DSP	All DSP	All DSP sold through state stores	Control of DSP only. <i>15% ABV cap on beer.</i>
Ohio	No		All DSP	All DSP	State-issued retail licenses	Control of DSP only. 12% ABV cap on beer.
Oregon	No	Vermouth is controlled by state	All DSP	Vermouth and all DSP	State Stores	Private Licensees may sell wine (except vermouth). DSP sold at retail through state stores.
Pennsylvania	No	All wine	All DSP	All wine and DSP	State stores, limited retail licensees	State control at all levels of distribution. Wine and spirits can only be sold at state-operated stores, beer can be purchased at beverage outlets or restaurants with Liquor control Board-issued licenses.
Utah	No	All wine	All DSP	All wine and DSP	State stores, limited retail licensees	State control at all levels of distribution. <i>Beer with ABV >3.2% sold in state stores.</i>
Vermont	No	Wine > 16%, Vermouth	All DSP	Wine > 16%, vermouth, all DSP	State stores, state-issued retail licenses	Licenses available for producers; wholesalers (beer and wine <16%); retail on-, off-premise beer and wine sales, on-premise DSP sales.
Virginia	No		All DSP	All DSP	All DSP sold through state stores	Control of DSP only
Washington	No	All wine	All DSP	All wine, DSP	Wine, DSP sold through state stores and licensees	Concurrent private licensee sales. Retail through state stores and licenses issued by state. Beer and wine available in grocery stores and convenience stores every day. Spirits for off-premises consumption are sold only in state run or state contracted liquor stores.
West Virginia	No	Fortified wine over 14%, vermouth	All DSP	Fortified wine over 14%, vermouth, DSP	state stores	Wine under 14% ABV may be sold through private licensees. 6% ABV cap on beer. State does not operate retail stores; retains monopoly over wholesaling of distilled spirits only.

Table wine (wine up to 14% alcohol by volume) may come under state control in 5 states: Mississippi, Maryland (counties), Pennsylvania, Utah, and Washington. However, Mississippi controls wine over 4% alcohol by weight, which may exclude some table wines, and Washington allows table wine to be sold concurrently through a licensed distribution system. Dessert wines (wine over 14% alcohol by volume) may come under state control in 12 states: Alabama, Idaho, Mississippi, Montana, Maryland (county), New Hampshire, Oregon, Pennsylvania, Utah, Vermont, Washington and West Virginia. However, Montana and Vermont controls wine over 16% alcohol by volume, which may exclude some dessert wines from state control. Oregon only controls vermouth.